

S/N 09/565,041

*Amendment & Response***REMARKS**

Applicants thank the Examiner and her Supervisor for the time taken for the personal interview on October 16, 2002 with Applicants' Representatives Gerard Portal and Anna Nelson. Applicants also thank the Examiner for the helpful comments and suggestions offered there.

Claims 65-132 remain pending in the application after entry of this amendment. Claims 1-64 were cancelled herein, and new claims 65-132 were added herein. Favorable reconsideration is respectfully requested.

Rejection under 35 U.S.C. § 112

The Examiner rejected claims 1-19, 24-26, 28-38, 41-45, 53, 54, and 59-64 under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicants respectfully submit that the various issues raised by the Examiner are not included in the newly presented claims, and Applicant therefore respectfully requests that the rejection be withdrawn.

Rejection under 35 U.S.C. § 102

The Examiner rejected claims 1-8, 12-20, 24-38, 40-42, 44, and 45 under 35 U.S.C. § 102(b) as being anticipated by Boyce (US 5,273,900). Although this rejection has not been raised with respect to the newly amended claims, it will be addressed to the extent it may be applied.

Applicants respectfully submit that new claims 65-97 and 130 are free of Boyce, as indicated by the Examiner as being directed to the second product that was contained in the previously presented claims. Applicants also respectfully submit that claims 98-129 and 131-132 are not anticipated by Boyce because Boyce does not disclose a product where the "collagen film is prepared by drying a collagen gel separately from the porous collagen layer".

The product of Boyce is prepared by covering a membrane layer with a gel of collagen and freezing and lyophilizing the two layers (column 7). Therefore, the layer that corresponds to the collagen gel is not prepared separately from the porous collagen layer, as is required by the claims. Applicants therefore respectfully request the withdrawal of this rejection.

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The Examiner rejected claims 9, 43, 53, 54, and 61-64 under 35 U.S.C. § 102(b) as being anticipated by Eisenberg (WO 91/16010). Although this rejection has not been raised with respect to the newly amended claims, it will be addressed to the extent it may be applied.

Applicants respectfully submit that new claims 65-97 and 130 are free of Boyce, as indicated by the Examiner as being directed to the second product that was contained in the previously presented claims. Applicants also respectfully submit that claims 98-129 and 131-132 are not anticipated by Eisenberg because Eisenberg does not disclose a product where the "collagen film is prepared by drying a collagen gel separately from the porous collagen layer".

The product of Eisenberg is prepared by layering a solution of non-porous collagen onto a sponge to create a thick film on the sponge (page 9, line 7-8). The layered product is then incubated to complete polymerization of the collagen at 37° C for 60 minutes. Therefore, the layer that corresponds to the collagen gel is not prepared separately from the porous collagen layer, as is required by the claims. Applicants therefore respectfully request the withdrawal of this rejection.

Rejection under 35 U.S.C. § 103(a)

The Examiner rejected claim 39 under 35 U.S.C. § 103(a) as being unpatentable over Boyce as applied to claim 20 above, and further in view of Eisenberg (WO 91/16010). Although this rejection has not been raised with respect to the newly amended claims, it will be addressed to the extent it may be applied.

Applicants reiterate the discussion offered above, and respectfully submit that the combination of Boyce and Eisenberg does not render the instant claims obvious. Applicants therefore respectfully request the withdrawal of this rejection.

Rejection under Obviousness-type double patenting

As discussed in the interview with the Examiner, Applicants also bring to the attention of the Examiner a co-pending, commonly owned application, Serial No. 09/616,282. Applicants enclose herewith an executed terminal disclaimer if the Examiner finds such necessary to overcome any obviousness-type double patenting rejection.

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CONCLUSION

In view of the amendments and remarks presented herein, it is respectfully submitted that the claims are in condition for allowance and notification to that effect is earnestly solicited. The Examiner is invited to contact the Applicants' representative at the number given below if it would advance prosecution of this case.

Respectfully submitted,

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